

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

LOVELACE FARMS, INC., et al,)	No. ED101069
)	
Respondents,)	Appeal from the Circuit Court
)	of St. Louis County
vs.)	
)	Honorable Barbara W. Wallace
MARVIN MARSHALL, et al.,)	
)	
Appellants.)	FILED: September 16, 2014

Appellants Marvin Marshall and P.J. Marshall (“the Marshalls”) appeal from the judgment of the Circuit Court of St. Louis County granting Respondents Lovelace Farms, Inc., Wayne Lovelace, and Judy Lovelace’s motion to stay arbitration. The Marshalls assert that the circuit court erred in staying arbitration because the Federal Arbitration Act compelled arbitration. Specifically, the Marshalls contend that the parties’ disputes come within the broad scope of a valid arbitration agreement, and any questions as to arbitrability, including the issue of waiver, should be decided by the arbitrator, not the court.

AFFIRMED.

Division III holds: Because the issue of waiver based on litigation conduct is a matter for the court and not the arbitrator to decide, and because the Marshalls by their litigation conduct waived their right to arbitration, we affirm the judgment of the circuit court.

Opinion by: Kurt S. Odenwald, P.J., Robert G. Dowd, Jr., J. and Gary M. Gaertner, Jr., J. Concur.

Attorney for Appellant: Michael A. Clithero and Michael D. Pinnisi

Attorney for Respondent: Thomas B. Weaver and Daniel C. Nelson

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.
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